



**SUPREME COURT OF CALIFORNIA  
ORAL ARGUMENT CALENDAR  
SAN FRANCISCO SESSION  
JANUARY 8, 2013**

The following cases are placed upon the calendar of the Supreme Court for hearing at its courtroom in the Ronald M. George State Office Complex, Earl Warren Building, 350 McAllister Street, Fourth Floor, San Francisco, California on January 8, 2013.

**TUESDAY, JANUARY 8, 2013—9:00 A.M.**

- |     |         |  |
|-----|---------|--|
| (1) | S192176 | People v. Leiva (Jose)                 |
| (2) | S194129 | In re Vicks (Michael) on Habeas Corpus |
| (3) | S192704 | People v. Delgado (Mildred)            |

**1:30 P.M.**

- |     |         |   |
|-----|---------|---|
| (4) | S190713 | People v. Wilkins (Cole Allen)                        |
| (5) | S195600 | People v. Carbajal (Valentin)                         |
| (6) | S058157 | People v. Pearson (Michael Nevail) [Automatic Appeal] |

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CANTIL-SAKAUYE

*Chief Justice*

If exhibits are to be transmitted to this court, counsel must apply to the court for permission. (See Cal. Rules of Court, rule 8.224(c).)

**SUPREME COURT OF CALIFORNIA  
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The following case summaries are issued to inform the public about cases that the California Supreme Court has scheduled for oral argument and of their general subject matter. In most instances, the descriptions set out below are reproduced from the original news release issued when review in each of these matters was granted and are provided for the convenience of the public. The descriptions do not necessarily reflect the view of the court or define the specific issues that will be addressed by the court.

**TUESDAY, JANUARY 8, 2013—9:00 A.M.**

**(1) *People v. Leiva (Jose)*, S192176**

#11-69, *People v. Leiva (Jose)*, S192176. (B214397; 193 Cal.App.4th 114; Superior Court of Los Angeles County; PA035556.) Petition for review after the Court of Appeal affirmed an order revoking probation in a criminal case. This case presents the following issues: (1) Did the trial court have jurisdiction to revoke defendant's probation? (2) Did sufficient evidence support the trial court's finding that defendant either failed to report to his probation officer or reentered the country illegally? (3) Did the trial court's finding rely upon admissible evidence?

**(2) *In re Vicks (Michael) on Habeas Corpus*, S194129**

#11-86, *In re Vicks (Michael) on Habeas Corpus*, S194129. (D056998; 195 Cal.App.4th 475; Superior Court of San Diego County; CR63419.) Petition for review after the Court of Appeal granted relief on a petition for writ of habeas corpus. This case presents the following issue: Can Penal Code section 3041.5, as amended by the "Victims' Bill of Rights Act of 2008: Marsy's Law," which decreased the frequency of parole consideration hearings, be applied to life inmates convicted before the effective date of the amendments without violating the ex post facto clauses of the state and federal Constitutions?

**(3) *People v. Delgado (Mildred)*, S192704**

#11-79, *People v. Delgado (Mildred)*, S192704. (B220174; 193 Cal.App.4th 1202; Superior Court of Los Angeles County.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court limited review to the following issues: (1) Did the trial court have a duty to instruct on its own motion on an aiding and abetting theory of liability when defendant personally performed some elements of the charged offense and another person performed the remaining elements required to complete the crime? (2) If so, did the Court of Appeal correctly conclude that the trial court's failure to instruct on aiding and abetting was harmless error?

**1:30 P.M.**

**(4) *People v. Wilkins (Cole Allen)*, S190713**

#11-49, *People v. Wilkins (Cole Allen)*, S190713. (G040716; 191 Cal.App.4th 780; Superior Court of Orange County; 06NF2339.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. The court limited review to the following issue: Should the trial court have instructed the jury, as requested, with CALCRIM No. 3261, on the theory that a homicide and an underlying felony do not constitute one continuous transaction for purposes of the felony-murder rule if the killer has escaped to a place of temporary safety before the homicide takes place?

**(5) *People v. Carbajal (Valentin)*, S195600**

#11-121, *People v. Carbajal (Valentin)*, S195600. (B222615; 197 Cal.App.4th 32; Superior Court of Los Angeles County; BA316526.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. This case presents the following issue: Was retrial on sentencing allegations under the one strike law (Pen. Code, § 667.61) barred by double jeopardy although the first jury never reached or resolved the issue?

**(6) *People v. Pearson (Michael Nevail)*, S058157 [Automatic Appeal]**

This matter is an automatic appeal from a judgment of death.